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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13668 OF 2021

Ansari Huma Jabeen
w/o Ansari Nazeer Ashraf & Others

PETITIONERS

VERSUS

Sk. Amin Sk. Habib and Another

RESPONDENTS

.....
Mr. S.S.Jangada h/f Mr. S. S. Deshmukh, Advocate for petitioners
Mr. S. D. Hussain h/f Mr. M. R. Deshmukh, Advocate for R-2
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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 9th JUNE, 2022

ORDER :

1. The application (Exhibit-44) filed by the petitioners – original claimants, to issue witness summons to three witnesses, in MACP No. 221 of 2016 is rejected by the learned Member, Motor Accident Claims Tribunal, Parbhani. Present petition, filed under Articles 226 and 227 of the Constitution of India, challenges the said order.

2. The application Exhibit-44 is rejected by the Tribunal on the ground that the petitioner-claimants are unnecessarily prolonging the matter and though sufficient opportunity was given to them to examine witnesses since January, 2019, they

failed to take proper steps to examine witnesses on their behalf.

3. Having heard the learned advocate for the petitioner – claimants and learned advocate for respondent No.2 and after going through the documents placed on record, this Court is of the considered view that the impugned order is unsustainable in law and facts of the case. Section 166 of the Motor Vehicles Act is a beneficial legislation. Reasonable and fair opportunity of leading best possible evidence to prove the claim is required to be given to the claimants.

4. Since the impugned order denies reasonable and fair opportunity to lead evidence to the petitioner -claimants, the same is unjust and unsustainable. Writ petition is, therefore, allowed. The impugned order passed by learned Member, Motor Accident Claims Tribunal, Parbhani below Exhibit-44 in MACP No. 221 of 2016 is quashed and set aside. Application Exhibit-44 is allowed. The petitioner-claimants shall examine witnesses as expeditiously as possible and co-operate in expeditious disposal of the claim petition. The Tribunal shall decide the claim petition within six months from the date of receipt of writ of this order.

[NITIN B. SURYAWANSHI]
JUDGE